

STATEWIDE FISCAL POLICY ADVISORY COMMITTEE MINUTES

Thursday, October 11, 2007

In attendance: Merideth Hackney, SCO Ed Bowden, C&L
Randy Smith, H&W David Fulkerson, DFM
Jim Carter, SCO Don Robbins, IIC

Agenda 1: Minutes

Minutes for last meeting approved.

Agenda 2: Education Expenses

Randy presented his findings regarding reimbursement of educational expenses (see attachment below). IRS code defines the individual exclusion amount for an approved written educational assistance program. However the State is considered a single employer, so this IRS code does not apply to individual agencies.

IRS code also identifies those expenses that are deductible and those that are not. Education expenses which maintain or improve skills in a person's employment are deductible. Education expenses which help qualify one for employment are not deductible. Further, expenses are not deductible if they qualify a person for a new trade or business.

Agencies may reimburse employees for educational expenses without taxable status as long as the employer considers it a "working condition fringe." And if the reimbursement is a benefit employee's wages, the employee can take a tax deduction for them.

The committee agreed that a Statewide policy is not needed for educational expenses, though individual agencies ought to have their own written internal policy. The committee agreed that a guideline for agencies would be appropriate to publish. The committee will make sure that the appropriate fiscal subobjects are in place (one needed for taxable tuition reimbursement) and create a communication for agencies to make them aware of those codes.

Agenda 3: Contract Monitoring

Randy presented his findings regarding contract monitoring (see attachment below). Based on his research with Health and Welfare (which has over 1,000 contracts), Randy compiled several issues that should be addressed for contract monitoring: 1) monitoring must be done on a regular schedule; 2) each contract must have a metric – a specific deliverable that can be measured (and the contract should define those metrics); 3) a corrective action plan should be established which define the penalty (also should be stated in the contract); 4) Documentation is key to monitoring and should be part of the process.

Merideth asked if a policy is needed to require contract monitoring. The committee agreed this would be better suited as a guideline. The committee discussed if the

guideline should be sent for comment. David suggested surveying the Fiscal Officers for input and Merideth would develop a written guideline. Merideth volunteered to send a survey email to agencies on the concept of having a general guidelines category in the FPAC manual.

Agenda 4: Outside Bank Accounts

Don Berg was not in attendance for presenting recommendations based on the ITD procedures. Agenda item postponed.

Agenda 5: Review of Other Policies

Other policies will be reviewed next meeting. Those policies include:

- General Information
- Inter-fund Borrowing
- Fund Establishment
- Petty Cash
- Rotary Funds

Ed suggested adding the Funds – Definitions policy to the list.

Other issues

Ed will send copies of the Independent Contractors draft for review. IC 1372 has not changed substantially so the draft can move forward.

Next meeting:

Thursday, November 8, 2007 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda:

1. Education expense and Contract monitoring guidelines.
2. Review policies:
 - General Information
 - Inter-fund Borrowing
 - Fund Establishment
 - Petty Cash
 - Rotary Funds
 - Funds – Definitions
3. Independent Contractors Draft
4. Outside bank accounts (for statewide conferences policy)

Attachments:

Educational Expenses

October 11, 2007

Educational assistance is normally taxable to an employee if it qualifies them for a new job or career. However, if an employer has an approved, written, educational assistance program it becomes a defined benefit and any employee requesting it must be granted the benefit if they meet conditional requirements within the plan. Individual exclusion of up to \$5,250 per calendar year is allowed.

The State of Idaho is considered a single employer and no Educational Assistance Program has been set up for the purposes allowed by IRS code. Therefore, this provision in the IRS code is not applicable to agency employers.

Educational expenses are deductible to an employee if they maintain or improve skills required by the individual in his employment or if they meet the express requirements of the employer. The expenses are deductible if the educational requirements are imposed as a condition to retention of employment, status, or pay level, and also if new requirements are imposed after the employee is hired. See section 1.162-5(c), Income Tax Regulations.

Educational expenses are not deductible if the courses are required to satisfy the minimum educational requirements to qualify for employment. For instance, if a bachelor's degree is a minimum requirement for a teacher, none of the costs of a bachelor's degree would be deductible, even if an individual was hired provisionally as a teacher, with the understanding that he would complete his bachelor's degree.

Educational expenses are not deductible if they qualify the individual for a new trade or business. Thus, if an employer requires an employee to pursue a law degree in order to continue her current non-legal employment, the expenditures of attending law school are not deductible. See section 1.165-2(b)(3) of the Regulations.

- ✧ Individual agencies may reimburse employees for educational expenses without taxable status as long as the employer considers it a working condition fringe. A working condition fringe is any property or services provided to an employee to the extent that, if the employee paid for them, the payment would be allowable as a deduction by the employee.

If the employee is reimbursed for expenditures, the reimbursement arrangement must be an accountable plan within the meaning of section 62(c) and regulations. If the employer includes the benefit in the employee's wages, the employee can take a deduction for the expenses on his or her individual income tax return if the tests are met.

Contract Monitoring

October 11, 2007

One of the most overlooked functional areas of contract management is probably the most important. Monitoring contracts can raise issues with performance and subsequent actions.

Monitoring must be done on a regular basis and with an eye toward outcomes.

Each contract must have a metric that can be measured, i.e. reports, number of widgets, deliverables, etc. The contract must define what those metrics are.

If the measurement of those definitions does not meet the acceptable standard, as stated in the contract, the monitor should be working with the contractor to work on a corrective action plan. Abuse of contract terms or lack of deliverables should be stated in the contract and what corrective actions are expected. Often those corrective action plans will come with a penalty as a last resort. It is far easier to work with the contractor before it gets out of hand than it is to effectively impose a penalty and the possibility of legal action. If a penalty is warranted it must be worth it. As the contract is drafted pay particular attention to how to justify and define a penalty. Documentation is the key to proper monitoring. Without it penalties cannot be effectively imposed. Documentation will also bring issues to light sooner and may limit the agency's liability if something goes wrong.

STATEWIDE FISCAL POLICY ADVISORY COMMITTEE MINUTES

Thursday, May 10, 2007

In attendance: Merideth Hackney, SCO	Kelly Nielsen, Agriculture
Ed Bowden, C&L	Randy Smith, H&W
David Fulkerson, DFM	Jim Carter, SCO
Don Robbins, IIC	Don Berg, LSO

Agenda 1: Minutes

Minutes were updated: Add to Agenda 2 Educational Assistance Policy Agency Replies -Randy will review the tax implications of issues raised and Merideth would send the summary to agencies.
1 Add to Agenda 6 Procurement and Contract Management -Randy will research this topic further.
Add to Agenda 7 Reverse Trade Mission - Kelly will attend the next Board of Examiners to follow up.

Minutes approved as changed.

Agenda 2: Independent Contractors

Ed found that Idaho Code 72-1372 has changed in regards to penalties. The change has to do with employer error. Ed will add the relevant sections of the code to the draft policy. The committee discussed how much detail of the penalties needs to be repeated in the policy. Ed suggested some paraphrased versions of the IC penalties which the committee accepted. Don Berg said that the policy should guide agencies in the correct procedures and only indicate the consequences of not following the rules. Ed stated that the policy should include the IRS penalties and links to IRS code. The committee recognized that agencies are looking for information on how to determine employee status, not for the specific penalties of categorizing employees incorrectly. Ed will continue to work on the draft and bring it back for discussion.

Agenda 3: Outside Bank Accounts

Don Berg commented on ITD's procedures. While many of them do not apply for practical purposes statewide, some items are useful. The single most important item is that the person who signs the checks does not have control of the blank checks. Another useful item is having some sort of notification of payment or non-payment come to someone other than person making the payments. Closing the bank account within 6 months of the event is also a good idea, although the closeout procedure needs to be clear. It needs to account for where balances or deficits in the account go. Notifying LSO of an account being established is also a good practice. Merideth said that the ITD procedures could be a good guide, but not something agencies are required to follow. Also she said that ITD procedures seem to cover receipts fairly well, but they are not as clear on disbursements. Don will put together a more detailed recommendation based on the ITD procedures.

Merideth suggested that the next FPAC meeting start with a review of other policies:

- General Information section
- Interfund Borrowing
- Fund Establishment
- Petty Cash
- Rotary Fund

Next meeting: Thursday June 14, 2007 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda:

1. Review several of the older policies:

- General Information
- Inter-Fund Borrowing
- Fund Establishment
- Petty Cash
- Rotary Funds

2. Review Independent Contractors draft policy

3. Review outside bank accounts (for statewide conferences policy)

STATEWIDE FISCAL POLICY ADVISORY COMMITTEE MINUTES

Wednesday, February 21, 2007

In attendance: Merideth Hackney, SCO Don Berg, LSO
 Linda Georgiev, Agriculture Ed Bowden, C&L
 Randy Smith, H&W David Fulkerson, DFM
 Jim Carter, SCO

Agenda 1: Minutes

Minutes were approved as corrected.

Agenda 2: Outside bank accounts for statewide conferences

Merideth said that although FPAC policy for conventions/conferences expenses includes requirements for documentation and notification, there is no provision for auditing. Don Berg said LSO should also be notified so there would at least be the opportunity to audit expenses. The auditing process can be determined later. The committee agreed that the policy did not apply to employee funds ("coffee funds"). Jim will add LSO to the agencies to be notified.

Agenda 2: FPAC Meeting schedule

Ed requested to reschedule the meeting to a different day of the week. FPAC meetings will now be held on the second Thursday of each month, 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda 3: Independent Contractor

Brandon Woolf said that his office receives calls every month from agencies regarding the classification of workers. His main concern is that through the policy the SCO gives guidance and a sort of approval to agencies which could make SCO liable. He asks if this should be SCO's role.

Merideth said that agencies are looking for who has final say over worker classification. She asked if the Dept of Labor should be involved. David noted that the policy section simply states that agencies must follow the rules and regulations, but the issue is who they turn to when those are unclear. Don said that Dept of Labor should probably be involved. Randy added that the Tax Commission might be included.

Brandon said that another issue with the policy is education – where do agencies go for information? David said we should list the relevant resources in the policy, even though it may not stop calls from coming to SCO. Don said to also give them a place to go to ask questions, namely the Dept of Labor.

Ed said that he will gather a list of resources and bring them back to the next meeting. David said that the policy then should just contain the Definitions, Policy, Resources, and a contact point – the Fiscal Impact section should be taken out. The committee agreed.

Agenda 4: Convenience Fees

Merideth received a comment from Water Resources that they have fees that are capped by statute and cannot add on a convenience fee. The committee generally agreed that if an agency has to pay for a convenience fee, they recognize that as an expense. If the agency's fee (for their service) is not established in code then they can add the convenience fee on if they want to. The committee believes that the policy covers this and it is ready to be sent to Donna Jones for signature.

Agenda 5: Educational Expenses

Merideth will ask Darla Rankin to bring this issue to Donna Jones to see if a statewide policy is needed. The committee agreed that current agency-wide and even intra-agency policies differ greatly. Merideth said that once Donna Jones agrees to pursue a statewide policy, she will survey agencies about such a policy. Don added that we may need to sell the idea of the need for a policy.

David said the policy should allow for each agency to be as restrictive as they need to be. Ed said that the policy should not make it impossible for employees to advance their careers.

Agenda 6: Receipts for P-Card meals

Merideth received a comment from Fish & Game (F&G) that the P-Card Policy and the Travel policies conflict in regards to requiring receipts for meals. P-Card Policy requires a receipt for meals whereas Travel Policy does not. Fish & Game wants the P-Card Policy changed so that receipts are not required. F&G does not pay full per diem yet they also require P-Card to be used. The committee recognized that P-Card Policy does not restrict per diem reimbursements as described in the Travel Policy and Travel Policy does not specify the method of payment used for meals. Several issues were discussed regarding travel costs and P-Card, including the administrative costs to process transactions based on actual dollar amounts vs. per diem transactions and manager/employee relationships. The committee agreed not to change the policy. Merideth will contact F&G about the decision.

Agenda 7: Detailed Receipts for P-Card

Merideth said that P-Card Policy requires receipts for transactions, but it does not specify if they should be itemized or detailed receipts. The committee agreed that for meals it may not be necessary, but for other purchase the receipts should have sufficient detail to support the purchase. Merideth will review the policy to see where it can be clarified.

Agenda 8: Scanned documentation considered as "original"

Merideth has had several questions regarding the use of scanned documentation as "originals" and has received suggestions to remove the word "original" from relevant policies. Don said that LSO considers scanned documents as originals. Randy agreed with Don and said that the term should be removed. The committee will make a recommendation to remove this term from the Travel Policy.

Agenda 9: Miscellaneous

Merideth has been asked if there are procedures to follow for cases of fraud, theft, or abuse (internal). No one knew of any specific procedures. Ed said that the Attorney General would probably have say over these issues. David will ask the Attorney General's Office for comment.

Merideth also noted that with the dissolution of Dept of Admin the General Information documents in the FPAC policies will need to be reviewed/updated.

Next meeting: Thursday, March 8, 2007, 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda:

1. Educational Expenses Policy/Procedures
2. Fraud Policy/Procedures
3. Policies with "original receipt" or similar
4. Matrix of Policies that have been or need to be updated
5. P-Card Policy – sufficient detail on receipts
6. Independent Contractor resources
7. Conference Policy outside bank accounts
8. Event Financial Procedures

STATEWIDE FISCAL POLICY ADVISORY COMMITTEE MINUTES

Wednesday, March 8, 2007

In attendance: Merideth Hackney, SCO Don Berg, LSO
Ed Bowden, C&L Randy Smith, H&W
David Fulkerson, DFM Jim Carter, SCO
Don Robbins, IIC

Agenda 1: Minutes

February Minutes were approved.

Agenda 2: Educational Assistance

Donna Jones has approved proceeding with development of a statewide educational assistance policy. The committee agrees that such policy would address higher education only. David and Merideth will survey agencies as to what their current policies are. Randy added that tax implications may need to be considered in developing the policy, even if not specifically addressed in the final draft. Don Berg asked what types of issues would be addressed by the policy – type of education, amount, etc. Merideth agreed those issues probably would as well as grade level completed, approval process, and various others that may be discovered from the agency survey.

Agenda 3: Fraud Policy

David had asked the Attorney General's office about any existing fraud policies. They referred him to whistleblower statutes, but nothing else specific. Merideth said there was no policy in the SCO, but Donna Jones is interested in creating a fraud hotline. Comments from agencies indicate that they at least want some contact point or office they can call. Ed noted that FPAC policy would be for state employees, but is there a guideline for the general public? Merideth said a guideline would be best on the governor's web site. Randy talked about Health and Welfare's 211 phone line and will ask about the types of calls they get.

Agenda 4: Original Receipt wording in policies

Jim did not find 'original receipt' wording in any other FPAC policies, but did find another specific instance of it in the State Moving Policy. Ed asked if we need to define in cases where an original receipt actually is required. Don Berg said that originality is no longer an issue in regards to the medium – paper, digital image, scanned image, etc., and that wording such as 'supporting documentation' would be sufficient. P-Card policy was reviewed for adding the wording "sufficient detail to support the charges" to references to receipts.

Agenda 5: Independent Contactors

Ed presented several examples of rules from the IRS, Idaho Code, and Texas statutes. Some of these repeated the IRS information, although the committee agreed that the Texas example provided a good comparison of contractor/employee examples. Ed said

we might want to keep the Fiscal Impact because the penalties described are what make people follow the rules. David said we could put a statement in the Preface about substantial penalties consequences if federal and state rules are not followed, followed by some of the information from Ed's examples.

Ed offered to rework the draft and bring it back to committee.

Agenda 6: Event Financial Procedures/ Outside bank accounts for statewide conferences

Merideth shared an email from Dave Tolman regarding 'Event Financial Procedures' and the use of outside bank accounts. Merideth asked if his procedures could be re-used in the convention/conference policy, although it needs to include disbursement activities. Don Berg will review the procedures for audit issues and to suggest any edits for re-use.

Agenda 7: Reviewed Policy Matrix

The committees reviewed the list of FPAC policies that have been reviewed by the committee over the last year. The committee identified the remaining policies that they will be reviewing going forward.

Next meeting: Thursday, April 12, 2007, 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda:

1. Educational Assistance policy/survey
2. Independent Contractors rewrite draft
3. Fraud Policy
4. Outside bank accounts procedures (for statewide conferences policy)

STATEWIDE FISCAL POLICY ADVISORY COMMITTEE MINUTES

Thursday, April 12, 2007

In attendance: Merideth Hackney, SCO Kelly Nielsen, Agriculture
Ed Bowden, C&L Randy Smith, H&W
David Fulkerson, DFM Jim Carter, SCO
Don Robbins, IIC

Agenda 1: Minutes

February Minutes were approved.

Agenda 2: Agency replies re: Educational Assistance Policy

The committee briefly discussed how educational reimbursement for employees of higher education institutions works. Randy said an IRS rule allowed for this.

Merideth volunteered to compile the agency replies and send a summary to the agencies. David suggested that it be a summary of what was said but not who said what. Merideth asked if such a policy is something to pursue – judging from replies it would need to be a high level policy. David said it lends itself to be a guide rather than a policy. Randy and Ed agreed that it should be advisory only. Kelly asked what the Controller's opinion is. Merideth said she did not oppose such a policy. David suggested tabling discussion until issues with Human resources are settled. Randy will review the tax implications of the issues raised in the replies and Merideth will send the summary of replies to agencies with a note that the matter is under consideration.

Agenda 3: Independent Contactors

After working on this policy, Ed has found that 1) some of the rules have changed and 2) the draft policy is getting very long. The IRS "20 factors" are no longer being used. IRS Publication 15a, page 6 is the current criteria. Ed said that it may be easier to provide the hyperlink to the IRS publication rather than copy the text in the policy. Similarly the criteria from Texas could be a link or the text possibly put in an appendix. Ed will email copies of these to the committee to consider whether they should be linked or copied in the policy. Ed also said the committee should consider if the penalties section of the policy applies to the State of Idaho.

Agenda 4: Fraud Policy

The committee discussed its role in developing a fraud policy. Since FPAC cannot develop the actual contact agency for fraud reporting, the committee considered writing some statement or list of resources that could be published. It was generally agreed that agencies don't know what to do or who to contact if they suspect fraud. David said such a statement could be published on several different web sites.

Some resources the committee thought of include the Attorney General, the Boise police department, the Governor's office or the overseeing agency, and Risk Management. Health & Welfare has its own fraud units. Merideth asked how FPAC should proceed. Ed asked if FPAC could make such a "directive". There was some discussion about creating

advisory statements that were not policies. The committee decided it was proper to give agencies guidance in certain issues. Merideth said she would work on the fraud statement and send some information to David for review.

Agenda 5: Outside Bank Accounts

Don Berg was not present at the meeting so discussion was postponed.

Agenda 6: Procurement and Contract Management

Darla Rankin asked Merideth to bring an issue to FPAC discussed in AGA – procurement and contract management after contract has been awarded (how it is monitored, e.g.). Is this a subject for policy?

David said that this would be another issue where FPAC could publish some guidance. Don Robbins and David talked about several issues that agencies needed to be aware of that would justify some sort of guidance and list of resources. Randy added that FPAC should evolve as more issues come to FPAC that don't need a policy, but agencies need advice. Randy will research this topic further.

Agenda 7: Reverse Trade Mission

The reverse trade mission document written by Kelly some time ago will be given to Patrick Hodges to present to the Board of Examiners. Kelly will attend the next Board of Examiners meeting to follow up.

Next meeting: Thursday, May 10, 2007, 1:30 PM in the State Controller's Office, 4th Floor conference room.

Agenda:

1. Review Independent Contractors draft policy
2. Discuss outside bank accounts (for statewide conferences policy)
3. Review several of the older policies:
 - General Information
 - Inter-Fund Borrowing (recently updated by Merideth)
 - Fund Establishment
 - Petty Cash
 - Rotary Funds